

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

LOYALTY CONVERSION SYSTEMS  
CORPORATION

v.

AMERICAN AIRLINES, INC., ET AL.

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Case No. 2:13-CV-655-JRG

**FIRST AMENDED DOCKET CONTROL ORDER FOR PATENT CASES  
ASSIGNED TO JUDGE RODNEY GILSTRAP AND JUDGE ROY PAYNE**

In accordance with the scheduling conference held in this case, it is hereby ORDERED that the following schedule of deadlines is in effect until further order of this Court:

March 9, 2015	*Jury Selection – 9:00 a.m. in Marshall, Texas
February 23, 2015	*Pretrial Conference – 9:00 a.m/p.m. in Marshall, Texas
February 18, 2015	*Notify Court of Agreements Reached During Meet and Confer  The parties are ordered to meet and confer on any outstanding objections or motions in limine. The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
February 16, 2015	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, and Responses to Motions in Limine
February 9, 2015	*File Notice of Request for Daily Transcript or Real Time Reporting.  If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at <a href="mailto:shelly_holmes@txed.uscourts.gov">shelly_holmes@txed.uscourts.gov</a> .
February 2, 2015	File Motions in Limine  The parties shall limit their motions in limine to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.

February 2, 2015	Serve Objections to Rebuttal Pretrial Disclosures
January 26, 2015	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
January 12, 2015	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
December 15, 2014	*File Dispositive Motions or Motions to Strike Expert Testimony (including Daubert Motions)  No dispositive motion or motion to strike expert testimony (including a Daubert motion) may be filed after this date without leave of the Court.
December 15, 2014	Deadline to Complete Expert Discovery
November 24, 2014	Serve Disclosures for Rebuttal Expert Witnesses
November 3, 2014	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
November 3, 2014	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
October 20, 2014	*Deadline to File Letter Briefs Regarding Dispositive Motions
September 25, 2014	Deadline to Complete Mediation  The parties are responsible for ensuring that a mediation report is filed no later than 5 days after the conclusion of mediation. See L.R. App. H.
September 18, 2014	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
August 28, 2014	*Claim Construction Hearing – 1:30 a.m. in Marshall, Texas
August 19, 2014	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
August 14, 2014	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
August 7, 2014	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
July 24, 2014	Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any)

July 24, 2014	Deadline to Substantially Complete Document Production and Exchange Privilege Logs  Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.
July 3, 2014	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
June 26, 2014	File Response to Amended Pleadings
June 12, 2014	*File Amended Pleadings  It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
June 5, 2014	Comply with P.R. 4-3 (Joint Claim Construction Statement)
May 15, 2014	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
April 24, 2014	Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
February 14, 2014	Comply with P.R. 3-3 & 3-4 (Invalidity Contentions)
January 24, 2014	*File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures)
January 17, 2014	*File Proposed Docket Control Order, Proposed Discovery Order, and Notice of Mediator
January 10, 2014	Join Additional Parties
December 20, 2013	Comply with P.R. 3-1 & 3-2 (Infringement Contentions)

(\*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

### **ADDITIONAL REQUIREMENTS**

Notice of Mediator: The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.

Summary Judgment Motions: Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of

those matters shall be no longer than five (5) pages and shall be filed with the Court no later than the deadline for filing letter briefs. Answering letter briefs in each of those matters shall be no longer than five (5) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than five (5) days thereafter. The Court may decide the question on the submissions or hold a hearing or telephone conference to hear arguments and to determine whether the filing of any motion will be permitted. Letter briefs shall be filed without exhibits. Any requests to submit letter briefs after the deadlines outlined above must show good cause.

Indefiniteness: In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their Markman briefing, subject to the local rules' normal page limits.

Motions for Continuance: The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.